Attachment 1

POLICY QUESTIONS IN REGARD TO CONSUMER-DIRECTED SUPPORTS

These questions are developed to provide a tool for analyzing legislation, rules and policy in regard to consumer directed supports. Introductory Questions are followed by a number of sections pertaining to the components recognized by the Centers for Medicaid and Medicare Services as being necessary for consumer-directed supports. Each of these sections has an introductory paragraph to explain the overall definition of the component, followed by questions pertaining to the topic. It is not expected that each question would be answered individually or that each question would pertain to all legislation, rules or policy documents. Rather, all the questions together provide a framework for considering the types of barriers that might prohibit the use of consumer-directed support options in a public system.

Introductory Questions Regarding Consumer-Directed Supports

1. Do statutes, rules, and policy documents reference accessible and available consumer-directed options to facility or traditional agency-based care for individuals with disabilities and/or long term care needs? What is the definition of consumer-directed supports in comparison to a nationally-recognized definition (i.e. from CMS Independence Plus templates)?
2. Are restrictions and barriers to access and eligibility for consumer-directed services apparent?
3. To whom are consumer-directed options available? Are there any restrictions or criteria for the individuals who are eligible and "appropriate" for consumer-directed options? Are those criteria logical, transparent?
4. To what extent do consumer-directed options allow for consumers to hire, fire, supervise and train staff?
5. To what extent are flexible services and supports available for consumers to access?
6. What funding sources are available to support consumer-directed support options? What would have to change to make more funding sources open to consumer-directed support?

The Centers for Medicaid and Medicare Services have determined several key components that must be present for consumer-directed supports under the Independence Plus templates. These components are considered to be critical to the success of consumer-directed supports.

PERSON CENTERED PLANNING

Person centered planning is fundamental to consumer directed options. It is critical to the funding process and functions as a fulcrum that keeps public spending and individual support needs in balance. Person centered planning is based on the following key principles:

- Services and supports based on the individual's choices, interests, and dreams as opposed to fitting the individual into existing services or programs
- Planning and providing only those services/supports that are needed and services that build on the individual's strengths
- Helping the individual access community services

- Coordination of services around the individual's life vs. needs of staff and programs
- Recognition of the abilities in neighbors, co-workers, families, and others to teach skills, form relationships, and support the individual's community participation
- Formation of a diverse group of people willing to know, value, and support the individual.

Because of the critical nature of person centered planning as it relates to the individual budgeting process, it is crucial to have a quality management approach to person centered planning. This would include mentoring and follow-up processes and technical assistance, including sampling and reviewing person centered plans for best practice elements, tied to outcomes, utilization and cost data.

Questions

1. What kind of planning is done for/with individuals? Are recognized models of person-centered planning being used, or are the principles of person-centered planning being adhered to?
2. What kind of training is being done in regard to person-centered planning? Who does the training and what kind of financial and other support is there for the training?
3. Who is responsible for person-centered planning? Who does this individual report to and by whom is the individual paid? Is the plan facilitator able to independently represent the consumer's wishes and needs?
4. What kinds of quality management are conducted around person-centered planning to assure the quality of the planning and that the planning reflects the wishes of the consumer? (Examples might be mentoring, providing technical assistance, follow-up reviews of a sample of plans, outcome data, etc.)
5. How flexible is the planning process and authorization of services? Can the plan be changed easily when needed by the consumer?

SUPPORT BROKERAGE

Critical to insuring quality person centered planning are the functions of independent support brokerage (regardless of the name it is called locally—in North Carolina, the staff performing this function might be called care advisor, case manager, support coordinator, counselor, etc.). Support brokerage provides assistance with recruiting, hiring, managing and dismissing a service worker; identifying and accessing community resources; and serving as the agent on behalf of the consumer. Support brokerage must be independent from service provision and the administrative responsibilities around service provision. Support brokers must have the freedom and authority to adequately represent the individual and be free from potential conflicts of interest. With the freedom and ability to truly represent the individual, plan development can adhere to the key principles noted above.

Questions:

1. Where is the function of support brokerage located? Is the support brokerage function located in the same agency that is providing the direct services (if so, what firewalls are established?)?
2. Who pays the support broker? Does this pose a conflict of interest?

3. What other functions does the support broker provide? What are the service definitions under which the support broker is hired, and are these definitions separated from other services that the individual is receiving?
4. Is the support coordinator able to function independently, on behalf of the consumer?
5. What are the potential conflicts of interest? What are reasons that the support broker might not feel free to represent what the consumer wants?
6. Who authorizes the services? What is the relationship between the support brokerage function and the authorization?
7. What assistance does the consumer have to recruit, hire, supervise and train staff? Is there a range of assistance available depending on what is needed?

INDIVIDUAL BUDGETING

One of the requirements for consumer directed supports, and closely tied to person centered planning, is that each person being supported has an individual budget. There are two components to an individual budget: 1) a methodology for determining the amount of dollars available to each individual, and 2) the way in which a person creates a budget to allocate those dollars for services and supports. With an individual budget, the consumer is able to purchase services and supports that are authorized in the plan, including supports that would enable the individual to be more independent. Within approved amounts, individuals should have the ability to move dollars from line item to line item as long as the essential supports are maintained.

CMS requires that individual budgets be:

- determined through an established methodology;
- open for public inspection;
- described to the individual and family;
- and based upon actual service utilization and cost data. Other data may be used, such as historical costs for existing participants.

It is suggested that states come up with a system that is:

- logical, in that it makes sense;
- transparent, in that decisions are based on methods that are known and easy to understand;
- equitable, in that people using the system believes it gives them the same opportunity to receive assistance as anyone else; and
- accurate, in that results of the funding method provide resources sufficient to meet the needs of the individuals.

In general, individual budgets are developed in one of two ways:

- a developmental process based on person-centered planning, or
- a process that separates the determination about individual budget allocations from decisions regarding the use of those funds (such as using service costs and functional characteristics to statistically determine a level of need to authorize a maximum budget amount, followed by person centered planning to determine how to use that amount)

Each of these approaches have multiple variations and limitations.

Questions:

1. Is there a mechanism for individual budgeting? If not, how are services and supports funded?
2. What is the sequence and method of budget development? Is the budget established before, during or after the person-centered planning process?
3. Who establishes the budget? What is the role of the consumer in the establishment of the budget?
4. How are decisions made about how much service and supports is enough? How are determination made about the funding level of the budget?
5. If the budget is established based on a level of need, how is that level determined? Past expenditures? Projection of future needs based on an assessment tool or process? A formal assessment process?
6. Is the system upon which budgets are based logical? Transparent? Equitable? Accurate?
7. If there are disagreements about individual budget allocations, how are those disagreements managed?
8. How are adjustments made to the budget?
9. How flexible is the budget? Are consumers able to change line items when circumstances change?
10. How are rates established for payment to providers (either agencies or individual staff)? Are consumers able to negotiate payment rates for their staff? Are payment rates different or the same for individually hired staff and for agency staff?
11. What is included in the budget? Does it include all services and supports needed or just individually arranged, self-directed services? Are the funding mechanisms flexible enough to allow for non-traditional supports to foster independence? How are administrative costs covered? How are financial management services covered?
12. If there are cost efficiencies seen through the self-directed process, how are those efficiencies managed?
13. Does the consumer receive regular reports of funds being utilized in the budget?

FINANCIAL MANAGEMENT

Financial Management Services (Fiscal Intermediaries), are typically agencies where an individual budget is banked or an account is set up. Some of the functions of these agencies are check writing for bills including personnel costs, tax withholding, and payment of worker's comp and health insurance. Other services can include recruiting and training of workers hired by the individual. Financial Managers are accountable for insuring compliance with all federal and state laws.

Questions

1. Are financial management services available for individuals who want to self-direct their services and supports?
2. What kinds of financial management services are available? Who is the common law employer (employer of record)? Are there options regarding how much responsibility the consumer will assume and how much the financial management agency will assume?
3. What is the mechanism for paying the financial manager? How is the rate established? Does the rate seem fair and equitable for the amount and types of services performed?

4. What is the mechanism for communication between the financial management agency, the consumer, the support broker and directly hired staff?
5. Is the role that is established for the financial management service clearly defined as service on behalf of the consumer? Are there any conflicts of interest?

PARTICIPANT PROTECTIONS AND QUALITY MANAGEMENT

Self-directed supports require a different form of quality management than do services provided in more traditional ways. Traditionally, strict regulations, licensure, certain quality assurance activities, and specific training for staff have been required, which do not necessarily apply in self-directed supports. In addition, when services provided in the home by staff who are not working in traditional provider agencies, there is less public "traffic" in and out of the home and therefore less informal and formal monitoring of the quality of care occurring. In self-directed supports there is a greater need for a high level of individualized education and information going to consumers and their families regarding such things as: how to hire, fire, supervise and schedule staff; how to work with a financial management services; how to identify and address issues of abuse, neglect and exploitation, etc. In addition, case managers and those authorizing the services as well as providers need a different understanding of their responsibilities in regard to self-directed supports.

Questions

1. What information is provided to consumers and family members regarding consumer directed options? Do they have the information needed to make well-informed decisions regarding participation, including responsibilities and liabilities? How is information about rights, responsibilities and appeal mechanisms shared?
2. Is there an easy mechanism for consumers to go back to more traditional, agency-based services if they decide that consumer-directed supports are not working for them?
3. What training and support is provided for the consumer in regard to hiring, firing, training, scheduling and supervising staff?
4. What procedures are in place for criminal record checks of staff? Drivers license checks?
5. What training and support is provided for the consumer in regard to abuse, neglect and exploitation?
6. What is the amount and type of monitoring that occurs for expenditures and the quality of services? Who is involved in monitoring?
7. How are risk planning, health and safety, and emergency staff back-up addressed in person centered plans?
8. Is there an incident management system that clearly identifies, investigates, and remediates incidents?
9. Do any of the monitoring mechanisms pose barriers to normal community life?
10. Is there a quality management system that includes the four core functions of quality management—design (policies, procedures and practices that prevent or avert threats to health and welfare); discovery (mechanisms for identifying threats to health and welfare, and for reporting critical incidents); remediation (mechanisms for addressing critical events after discovery so the problem is rectified); and improvement (mechanisms for reviewing procedures and outcomes, identifying inadequacies in the system, and developing solutions).

OTHER

Questions regarding Provider Qualifications

1. What are provider (individual staff) qualifications to provide services? Are the provider qualifications flexible enough to allow for broad choice for individuals while also assuring the skills needed to perform the job? Do the qualifications distinguish between personal care and assistance types of services, and other more services which require a higher skill level?
2. Are there rules, regulations or legislation that prohibit consumers from choosing staff who are not employees of home care/home health or other provider agencies?
3. What supervision requirements are in place for staff, and do these requirements create barriers for consumer-directed supports?
4. Are there mechanisms for individual staff to become enrolled as providers, join a provider network, or be funded through a financial management service?
5. What restrictions are in place regarding the hiring of family or friends as staff? Do these restrictions pose barriers for the ability of consumers to hire staff?